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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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7590 07/31/2002

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EXAMINER

CIRIC, LJILJANA V

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 07/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/828,029

Applicant(s)
Jeong

Examiner
Ljiljana V. Ciric *ARC*

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Apr 6, 2001
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above, claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Apr 6, 2001 is/are a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2 6) ☐ Other:

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DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because it is too long. Correction is required. See MPEP § 608.01(b).

2. The use of the trademarks "GALDEN" and "FLUORINERT" has been noted in this application. It should be capitalized wherever it appears *and should be accompanied by the generic terminology*. The instant trademarks, while appearing capitalized in the text of the specification, are not accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Rejections - 35 U.S.C. 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1 through 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 through 34 are apparatus claims and appropriately recite various structural elements. However, these apparatus claims also recite a "temperature control logic", which, as

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claimed, does not appear to correspond to any particular physical structure but is instead an intangible, thus rendering the claims indefinite with regard to the scope of protection sought. Recommend replacing "a temperature control logic" with "a controller programmed with a temperature control logic" in each of base claims 1, 14, 25, 31, and 33.

With regard to each of claims 10, 23, and 29, for example, it is not clear which particular structure if any corresponds to the limitations following "wherein" in the claim, thus rendering the claims indefinite with regard to the scope of protection sought.

Claims 1 through 34 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the structural cooperative relationship(s) between the cooling fluid control valve and the cooling fluid circulation loop as recited in each of base claims 1, 14, 25, 31, and 33.

Claims 1 through 34 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: a temperature sensor and/or other temperature sensing means necessary for providing temperature feedback information as recited in each of base claims 1, 14, 25, 31, and 33.

The above is an indicative, but not necessarily an exhaustive, list of 35 U.S.C. 112, second paragraph, problems. Applicant is therefore advised to carefully review all of the claims for

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additional problems. Correction is required of all of the 35 U.S.C. 112, second paragraph problems, whether or not these were particularly pointed out above.

Claim Rejections 35 U.S.C. 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

6. Claims 14 through 23, 25 through 27, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by *Higgins*.

Higgins discloses the invention essentially as claimed, including, for example: a remote temperature control module 16; primary circulatory system 38 and secondary circulatory system 138 which read on the respective circulation loops as claimed; a thermal electric module 51 which reads on the means for exchanging heat as claimed; and, a controller 312 which reads broadly on the control logic as claimed.

The reference thus reads on the claims.

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7. Alternately for claims 14 through 23, 25 through 27, and 29, claims 1 through 34 are rejected under 35 U.S.C. 102(e) as being anticipated by *Cowans et al.*

Cowans et al. [especially Figures 1 and 6] discloses the invention essentially as claimed, including, for example: evaporator or heat exchanger 60 or 70 which reads on the means for exchanging heat as claimed; a cooling fluid circulation loop and a heat transfer fluid circulation loop through evaporator or heat exchanger 60 or 70 or 98; a cooling fluid control valve 42; a heat source or heater 76; process component or tool or temperature controlled device 30 or 38; and a controller 26 which reads broadly on the control logic as claimed.

The reference thus reads on the claims.

Double Patenting

8. Claims 1 through 10, 14 through 23, and 25 through 29 of this application conflict with claims 1 through 25 of Application No. 09/780,713.

37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

9. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention,"

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in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

10. Claims 1 through 10 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1 through 10 of copending Application No. 09/780,713.

Claims 14 through 23 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 11 through 20 of copending Application No. 09/780,713.

Claims 25 through 29 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 21 through 25 of copending Application No. 09/780,713.

The above is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. *Sloan et al.*, *Stillhard*, *Yoshikawa et al.*, *Kerner*, *Asakawa*, *Teshima et al.*, *Fujisaki et al.*, *Hamilton et al.*, *Turner et al.*, *Schaper et al.*, *Alexander et al.*, *Alexander*, *Hunter*, *Getchel et al.*, *Pautsch et al.*, and *Malinoski et al.* each discloses a temperature control apparatus for processing equipment.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ljiljana (Lil) Ciric, whose telephone number is (703) 308-3925. While she works a flexible schedule that varies from day to day and from week to week, Examiner Ciric may generally be reached at the Office during the work week between the hours of 10 a.m. and 6 p.m. ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett, can be reached on (703) 308-0101. The fax phone number is (703) 305-3463.

Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

eb:LVC

LVCiric
LILJANA CIRIC
PATENT EXAMINER

June 28, 2002

LVC
7-29-02